



REPORTING OF THE RECORD TASK FORCE

Meeting Minutes

March 3 – 5, 2004

Administrative Office of the Courts

455 Golden Gate Avenue, San Francisco, CA 94102

TASK FORCE MEMBERS PRESENT:

Hon. James A. Ardaiz, Chair, Administrative Presiding
Justice of the Court of Appeal, Fifth Appellate District
Hon. S. William Abel, Judge, Superior Court
of Colusa County
Ms. Maura Baldocchi, CSR, Official Court Reporter,
Superior Court of San Francisco County
Mr. Gary M. Cramer, CSR, Official Court Reporter,
Superior Court of Los Angeles County
Ms. Deena C. Fawcett, Clerk/Administrator, Court of
Appeal, Third Appellate District
Mr. Edward J. Horowitz, Esq., Law Offices of
Edward J. Horowitz
Ms. Barbara J. Lane, CSR, Supervisor, Court Reporters,
Superior Court of Riverside County
Mr. Len LeTellier, Executive Officer, Superior Court of
Sutter County
Mr. Gary Evan McCurdy, Esq., Assistant Director,
Central California Appellate Program
Ms. Kary Parker, CSR, Official Court Reporter, Superior
Court of Orange County
Mr. Gordon Park-Li, Executive Officer, Superior Court
of San Francisco County
Mr. Tom Pringle, CSR, Official Court Reporter,
Superior Court of Shasta County
Mr. Paul J. Runyon, Administrator, Litigation Support,
Superior Court of Los Angeles County
Mr. Alan Slater, Chief Executive Officer, Superior Court
of Orange County
Ms. Fiel Tigno, Esq., Supervising Deputy
Attorney General, Office of the Attorney General,
Department of Justice

TASK FORCE MEMBERS ABSENT:

Hon. John S. Einhorn, Presiding Judge,
Superior Court of San Diego County

TASK FORCE LIAISON:

Ms. Julie R. Peak, CSR, Chair, Court Reporters Board of
California (**Absent**)

PRESENTERS:

None

GUESTS:

None

FACILITATOR:

Ms. Sharon Maher, Maher & Company (**Present**)

AOC STAFF PRESENT:

Ms. Pat Sweeten, Director, Executive Office Programs
Division
Ms. Christine E. Patton, Regional Administrative Director,
Bay Area/Northern Coastal Region
Ms. Sally Lee, Manager, Executive Office Programs
Division
Mr. Yonkel Goldstein, Attorney, Office of the General
Counsel
Ms. Claudia Ortega, Lead Staff, Senior Court Services
Analyst, Executive Office Programs Division
Ms. Josely Yangco-Fronda, Administrative Coordinator,
Executive Office Programs Division
Ms. Deborah Silva, Administrative Coordinator,
Executive Office Programs Division

AOC STAFF ABSENT:

Mr. Martin Riley, Governmental Affairs Analyst, Office
of Governmental Affairs

Meeting Minutes

Wednesday, March 3, 2004

Item 1 Opening Remarks

Administrative Presiding Justice James A. Ardaiz, Chair of the Reporting of the Record Task Force, called the meeting to order at 1:15 p.m. He summarized the major policy recommendations developed at the last meeting. He also informed the task force that it would be necessary to have a meeting in May to complete its draft report and other work.

Item 2 Public Comment

Members of the public did not address the task force on this day.

Item 3 Major Accomplishments from the Last Meeting

Justice Ardaiz recapped the policy recommendations reached at the last meeting regarding the courts' future transition from paper to digital transcripts.

Mr. Alan Slater asked if the public and entities (such as the Office of the Attorney General) would be able to comment on the task force's draft report before it is finalized. Justice Ardaiz replied that the task force would finalize its draft report at the May meeting. After that meeting, the draft report will be placed online for public comment. After the public has had an opportunity to comment, the task force will review the comments by e-mail and finalize the report. Justice Ardaiz stated that the task force's e-mail communication should preclude the need to hold another meeting after May 2004. After the task force has evaluated the public comment and made any necessary changes to the report, a final version of the report will be presented to the Judicial Council for its review.

Item 4 Meetings with the Court Reporting Profession Regarding Electronic Recording

Justice Ardaiz reported that in February, he met again with representatives from the California Court Reporters Association (CCRA) and Los Angeles County Court Reporters Association (LACCRA) to find resolution on the electronic recording issue. Ms. Pat Sweeten, Ms. Christine E. Patton, Mr. Yonkel Goldstein, and Mr. Paul J. Runyon also attended on behalf of the council and Administrative Office of the Courts (AOC).

Over the course of several days, the participants were able to effectuate a resolution that balances electronic recording and job protections for court reporters. Justice Ardaiz directed the members' attention to a copy of the agreement and walked them through its terms. Justice Ardaiz concluded by stating that this agreement required significant court reporter leadership. He stated that he believes this agreement is an effective and fair resolution to address the longstanding dispute regarding electronic recording. He informed the members that the terms of this agreement were recently shared with judicial branch leadership at a conference.

Mr. Gary M. Cramer directed the task force's attention to issue 9 of its charge, "Shortage of qualified court reporters, including such issues as recruitment, retention, and the consequent need to develop criteria for the use of alternative methods of reporting and maintaining the record." He requested that the task force discuss the issues of recruitment and retention.

Justice Ardaiz responded by stating that the court reporter leadership clearly emphasized the importance of the court reporting profession enduring. By expanding the use of reporters in unlimited civil and felony proceedings, the agreement establishes specific proceedings in which a reporter would be required. Justice Ardaiz stated that because of these terms, the agreement goes a long way in preserving the court reporting profession.

Mr. Cramer replied that he still would like the task force to discuss recruitment and retention of reporters.

Mr. Cramer then made a motion that the task force adopt the agreement as distributed to the members in response to issue 9 of its charge. The motion was seconded by Mr. Tom Pringle.

Ms. Maura Baldocchi stated that anything proposed to the council should be realistic concerning political realities and identification of problems. She pointed out that this agreement is between the council, CCRA, and LACCRA.

Justice Ardaiz emphasized the importance of presenting this agreement in a manner that illustrates all of the issues were examined. He emphasized that it is important that the agreement represent the best possible recommendation. Justice Ardaiz also stated that the agreement encapsulates terms that the council has already agreed to support.

Mr. Slater stated that in his experience as a council member, he has observed that the council greatly respects and acknowledges the time and analysis dedicated to developing reports. He stated that the council's legislative subcommittee unanimously supports this agreement. He added that, in his view, this agreement represents the best product for this time.

Justice Ardaiz stated that the task force's report would include historical references, such as the context for the agreement's development and the task force's vote.

Ms. Baldocchi asked if the historical reference would include the positions of the California Official Court Reporters Association (COCRA) and Deposition Reporters Association (DRA).

Justice Ardaiz replied that if COCRA would like to discuss its position, the subject is open for discussion during this meeting. He stated that COCRA and DRA have only communicated their positions on electronic recording to him before the agreement was developed. Justice Ardaiz read the letters that COCRA and DRA previously sent to him and his responses to both associations. He then stated that if COCRA has a position specifically regarding the agreement, it should convey that position to the task force for discussion. He stated it would not be appropriate for the report to include positions or views that the task force did not have an opportunity to evaluate.

Ms. Baldocchi replied that she would determine if COCRA would convey its position to the task force.

Justice Ardaiz carried this agenda item over to the next day so that members would have more time to review the agreement.

Item 5 Transition from Paper to Digital Transcripts

Ms. Sharon Maher recapped the task force's previous recommendations on this subject and referred members to a revised draft recommendation. The task force discussed the value and usability of reporters' notes without court access to reporters' electronic dictionaries. Specifically, it discussed whether the dictionary is absolutely necessary to decipher notes so that a transcript can be prepared. The task force agreed that electronic and hard copy notes are equally decipherable, but electronic notes are more efficient to maintain, secure, and access. It also concluded that reporters' electronic dictionaries are not necessary to decipher notes.

Item 6 Transcript Format – Status Chart, Introductory Information, and Identification of Common Events

Item 7 Transcript Format – Online Registration and Certification

Item 8 Transcript Format – Speaker Identification

Due to time constraints, the task force did not discuss these agenda items. These items were carried over to the next day.

Item 9 Shuttle Information

Ms. Claudia Ortega conveyed the shuttle schedule to the task force.

Item 10 Other Business/Adjournment

Justice Ardaiz left the meeting early to attend to other business matters. Ms. Sweeten adjourned the meeting at 4:35 p.m.

**Meeting Minutes
Thursday, March 4, 2004**

Item 1 Recap of the Previous Day's Discussion

Justice Ardaiz called the meeting to order at 8:50 a.m.

Item 2 Public Comment

Ms. Mary Ann Lutz, President of Lutz & Company and Past President of the American Association of Electronic Reporters and Transcribers (AAERT), expressed her perspective on the recent agreement reached by CCRA and the council. She also discussed standards for electronic reporting and certification of electronic reporters. Ms. Lutz also answered task force questions concerning the responsibilities of electronic reporters inside the courtroom, certification of electronic reporters, and the necessity of a reporter to monitor and annotate the proceedings.

Item 3 Transition from Paper to Digital Transcripts (Continued)

The task force continued its discussion of the revised draft recommendation for the transition from paper to digital transcripts, including the definitions for such terms as “digital” and “electronic filing”. Ms Ortega agreed to consult with AOC Information Services staff for the most appropriate definitions of these terms. Mr. Edward J. Horowitz suggested and the task force agreed to include a glossary of terms in the report. The task force then discussed the objectives of the pilot project, and Mr. Slater asked if the pilot project should include the clerk’s transcript. Justice Ardaiz replied that the electronic delivery of the clerk’s transcript is beyond the purview of the task force, but agreed with the suggestion by Mr. Slater to request AOC staff evaluate the electronic filing of the clerk’s transcript at a more appropriate time.

Item 4 Meetings with the Court Reporting Profession Regarding Electronic Recording (Continued)

The task force resumed its discussion regarding the agreement. Mr. Len LeTellier asked for clarification of Section 2(E). Justice Ardaiz replied that in the past, there were provisions for the use of “inaudible”, however, in some instances, questions arose as to whether the recording was actually inaudible.

On the previous day, Mr. Cramer made a motion that the task force adopt the agreement as distributed to the members in response to issue 9 of its charge. The motion was seconded by Mr. Pringle on the previous day. The task force voted on this motion.

- Passed with one dissenting vote (by Ms. Baldocchi).

Item 5 Transcript Format – Status Chart, Introductory Information, and Identification of Common Events

Ms. Maher walked the task force through the updated transcript format chart and recapped their most recent recommendations. The task force reviewed the draft guidelines and examples developed by Ms. Baldocchi. The task force finalized its recommendations regarding this subject.

Item 6 Transcript Format – Online Registration and Certification

Mr. Cramer led the discussion on this topic. The task force reviewed a mock Web screen for online registration and certification. The members concluded that sealed (or confidential) records, supplemental records, augmented records, and master indices should be included in the online registration. The members then added more data elements to the draft.

Item 7 Airport Shuttle Information

Ms. Ortega distributed the sign-up sheet for shuttles to the airports.

Item 8 Web Site Correspondence to the Task Force

Justice Ardaiz reported that the public has not sent any e-mails to the task force via its Web site since the last meeting.

Item 9 Transcript Format – Speaker Identification

Mr. Pringle led the discussion on this agenda item. The task force reviewed the draft guidelines and examples developed by Mr. Pringle, and finalized its recommendations regarding this subject.

Item 10 Court Reporter Education Project Update

Ms. Barbara Lane reported that she and other court reporter members attended a meeting in February with the AOC's Education Division staff to complete their work on this project. The curriculum will be designed to educate court reporters regarding sealed and grand jury proceedings, death penalty transcripts, and transcript covers.

Mr. Slater informed the task force that the Superior Court of Orange County developed its own procedures for these subjects. He then raised the question of whether there should be one, statewide educational manual for reporters. The task force concluded that there should be one, statewide educational manual for reporters. The members briefly discussed using online tutorials to educate reporters.

Item 11 Draft Task Force Report

Ms. Ortega outlined the process for creating and editing the task force's draft report. Ms. Ortega addressed Ms. Baldocchi's previous concern regarding how dissenting votes would be expressed in the report. Ms. Ortega stated that dissenting votes would be conveyed in the draft report's executive summary and relevant sections, and added that the goal is to provide the task force with an early draft of the report at its May meeting. After the members have reviewed the early draft, it will be placed online for public comment for approximately one month. The staff will compile and forward the public comments to the task force for review. The task force will then finalize the draft report and submit it to the council for its review.

Item 12 Transcript Format – Capitalization

The task force began discussion on whether the transcript's text should be capitalized or in upper and lower case. Mr. Slater made a motion that the task force recommend (1) that it is currently preferred that transcript text be in upper and lower case and (2) that after five years, the text must be in upper and lower case. The motion was seconded by Mr. Horowitz.

- Passed by unanimous vote.

Item 13 Transcript Format – Pagination/Volume

The members finalized their recommendation regarding this subject.

Item 14 Transcript Format – Indices for Witnesses and Indices for Death Penalty Cases

The members discussed transcripts for death penalty cases and concluded that the task force's transcript format recommendations should also apply to transcripts for death penalty cases. The members also developed recommendations for the contents of witness indices, exhibit indices, and death penalty indices.

Item 15 Standardization of Stenographic Court Reporting Systems

Ms. Maher directed the task force's attention to item 1 of its charge, "Standardization of Stenographic Court Reporting Systems". She and Ms. Ortega provided context to a draft recommendation by informing the task force that this would be the first discussion on this portion of the charge. Because it does not seem feasible or necessary to standardize court reporters' hardware and software, the task force was asked to consider the following draft recommendation:

The equipment and software used by official reporters and pro tempore reporters should be compatible with the following:

1. Courts' digital record *during the transition phase*;
2. The courts' digital record *in its final form*; and
3. All recommendations contained in this report.

Court reporting equipment and software should produce electronic records and notes. Official reporters and pro tempore reporters may continue to use the equipment and software of their choice, so long as this equipment and software are consistent with the task force's policy recommendations and meet the needs of the courts.

A motion was made by Mr. Runyon to adopt the above recommendation. The motion was seconded by Judge Abel.

- Passed by unanimous vote.

Item 16 Transcript Format – Headers and Footers

The members briefly discussed the value of including headers and footers in the transcript. A motion was made by Judge Abel to recommend that the transcripts must not include headers and footers. The motion was seconded by Mr. Runyon.

- Passed by unanimous vote.

Item 17 Transcript Format – Identification of Inaudible Speech

Section 2(E) of the agreement requests that the task force evaluate the procedures under which the terms "unintelligible" and "inaudible" shall be used to identify speech that cannot be understood. The task force began to discuss this subject. Justice Ardaiz suggested that the members make a referral for the development of a rule that addresses (1) the efforts that must be made prior to the utilization of the terms "unintelligible" and "inaudible", and (2) the procedures for challenging the use of these terms.

Mr. Runyon made a motion to accept Justice Ardaiz's suggestion. The motion was seconded by Judge Abel.

- Passed by unanimous vote.

Item 18 Transcript Format – Blank Lines

The task force concluded that since it will recommend payment by word, rather than by page or folio, the number of blank lines per page is no longer an issue. Accordingly, the task force did not develop a recommendation on this subject.

Item 19 Transcript Format – Other Items

Ms. Maher directed the task force's attention to the chart of transcript format items to determine which items still necessitated the members' review. The task force concluded that "Aesthetics v. Utility" and "Standardized Language – Abbreviations, Names, and Technical Terms" do not require discussion or review. The task force agreed that the issues of "Binding", "Seal", "Indentation", "Capitalization", and "Characters Per Line" require further discussion. The members also concluded that they fully addressed "The Length of Parentheticals", "Medium", and "Transcript Format Decisions for Applicability to Death Penalty Cases".

Item 20 Shuttle Information

Ms. Ortega conveyed the shuttle schedule to the task force.

Item 21 Adjournment

With no further business, Justice Ardaiz adjourned the meeting at 4:55 p.m.

Meeting Minutes Friday, March 5, 2004

Item 1 Recap of the Previous Day's Discussion

Justice Ardaiz called the meeting to order at 8:50 a.m. He reiterated that a May meeting would be necessary to close all remaining issues. Mr. Runyon suggested adding an additional day to the April meeting dates. Justice Ardaiz replied that he and the staff would discuss this and then inform the members if an additional meeting would be scheduled.

Ms. Maher provided an overview of the day's agenda.

Item 2 Public Comment

Members of the public did not address the task force on this day.

Item 3 Draft Minutes – December 2003 and January 2004

The task force reviewed the draft December 2003 minutes.

A motion was made by Judge Abel to approve the draft December 2003 minutes without amendments. The motion was seconded by Mr. Cramer.

- Passed by unanimous vote.

The task force reviewed the draft January 2004 minutes.

A motion was made by Judge Abel to approve the draft January 2004 minutes without amendments. The motion was seconded by Mr. Runyon.

- Passed by unanimous vote.

Mr. Cramer requested that the March 2004 minutes clarify that the task force will not issue an interim report and that it will instead produce a draft report for public comment.

Ms. Baldocchi requested that the March 2004 minutes reflect that representatives from COCRA and DRA did not attend the January meetings that produced the agreement.

Item 4 Rules of Court 4 and 9 Pertaining to Indexing, Binding, and Paginating of Dailies for the Record on Appeal

Ms. Ortega directed the task force's attention to a revised draft of the task force report that provided suggested amendments to Rules of Court 4 and 9, the task force's intent in proposing the amendments, and other background information. Ms. Ortega informed the members that an AOC attorney, with expertise in the appellate rules, is currently reviewing the task force's suggested amendments. She stated that because this expert and other attorneys would review the task force's proposed revisions, they would not be final. She added that if the council approves the task force's recommendation to modify the rules, the council's Rules and Projects Committee and staff would finalize the rule revisions within established procedures. The task force reviewed the draft and requested further revisions.

Item 5 Transcript Format – Binding

The task force began to discuss standardized binding for all transcripts. The task force identified three major issues: (1) what should be bound; (2) how to bind; and (3) criteria for binding. Justice Ardaiz requested a working group be developed to review existing rules, address these issues, and provide the task force with draft recommendations at the next meeting. Ms. Baldocchi, Mr. Cramer, Ms. Deena Fawcett, and Ms. Kary Parker volunteered for the working group.

Item 6 Transcript Format – Characters Per Line, Pitch, Font Size, Font Style, and Right Margins

The members briefly discussed these items. The members asked Ms. Parker to work with Ms. Julie Peak to provide samples of varying font sizes, font styles, pitch, right margins, and characters per line at the next meeting.

Item 7 Transcript Format – Sealed Records

Mr. Cramer led the discussion on this topic. The task force discussed how court reporters sometimes inadvertently provide unauthorized persons with sealed transcripts. The task force recommended that the court reporter curriculum include training on the appropriate distribution of sealed transcripts.

Item 8 Adjournment

Ms. Ortega announced that Mr. Cramer would be retiring later this month and that a surprise celebration would be held to acknowledge his contributions to the court reporting profession and the courts. The task force attended this celebration and then returned to the meeting room. Because Justice Ardaiz needed to leave the meeting early, Ms. Maher adjourned the meeting at 11:30 a.m.